



FmHA AN No. 2603 (1955)
July 31, 1992

SUBJECT: Deficiency Judgements on Farmer Programs Insured Loans

TO: State Directors, District Directors, and County Supervisors

PURPOSE/INTENDED OUTCOME:

To emphasize Farmers Home Administration's (FmHA) policy for obtaining deficiency judgements on Farmer Programs insured loans.

COMPARISON WITH PREVIOUS AN:

This AN replaces AN No. 2078 which expired on March 31, 1991, and AN No. 2248 that expired March 31, 1992.

IMPLEMENTATION RESPONSIBILITIES:

A decision must be made as to whether to seek a deficiency judgement when (1) a borrower voluntarily liquidates the security property, but the sale fails to pay the debt in full; (2) the security property is voluntarily conveyed to FmHA, but the borrower is not released from liability; or (3) a loan is being referred to the Office of the General Counsel for liquidation. Authority to seek a judgement is provided in FmHA Instruction 1955-A, Paragraph 1955.15(b)(2), for foreclosure action and FmHA Instruction 1962-A, Paragraph 1962.49, for other actions.

Judgements may be taken against the borrower, a co-borrower or a co-signer. In States where nonjudicial foreclosure is the normal method of foreclosure, State law may require the foreclosure to become a judicial process in order to obtain a deficiency judgement.

It is the policy of FmHA to seek a judgement when there is a reasonable chance of future collection from the judgement of all or part of the debt. This decision will be based on a thorough evaluation of the borrower's present and future financial condition. Items to be considered are:

1. The applicable statute of limitations. Consult your Regional Attorney;

EXPIRATION DATE: June 30, 1993


**FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1955-A**



2. Availability of other assets, especially real estate, which is not security for the FmHA debt;
3. Age and health of debtor;
4. Future earning capacity as indicated by the debtor's education and training;
5. Inheritance prospects;
6. The possibility of concealed or improperly transferred assets; and
7. In nonjudicial States, the additional costs, including accrued interest and property maintenance, which may be incurred if judicial foreclosure is required.

Deficiency judgements in those cases handled by the Department of Justice (DOJ) are collected by DOJ rather than FmHA employees. Any debt settlement offers for judgement debts must be made to DOJ rather than to FmHA.

ANY REVISIONS OR MODIFICATIONS TO THIS AN THAT YOU WISH TO PUBLISH AS A STATE DIRECTIVE MUST BE APPROVED BY THE ASSISTANT ADMINISTRATOR OF FARMER PROGRAMS BEFORE IT IS RELEASED FOR IMPLEMENTATION IN YOUR STATE. THE ONLY EXCEPTION TO THIS REQUIREMENT IS WHEN THE REVISION OR MODIFICATION IS NECESSARY FOR COMPLIANCE WITH STATE LAW.


LA VERNE AUSMAN
Administrator

Sent by Time Delay Option to States at 11:00 am on 8/6/92; to Districts at 1:00 pm on 8/6/92; and Counties at 3:00 pm on 8/6/92 by GSS.